

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 25

Filed by: Trial Section Merits Panel
Box Interference
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22 May 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOHN E. STARRETT, JR., KENNETH M. TRAMPOSCH, XINA NAIR,
PETER R. RECZEK, ANNA ERICSSON, ANNE MARINIER,
ALAIN MARTEL and FRED C. ZUSI,

Junior Party,
(Patent 5,945,561),

v.

VIDYASAGAR VULIGONDA, ALAN T. JOHNSON
and ROSHANTHA A. CHANDRARATNA,

Senior Party
(Application 09/482,700).

MAILED

MAY 22 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Patent Interference 104,803

Before McKELVEY, Senior Administrative Patent Judge, TORCZON, and
NAGUMO, Administrative Patent Judges.

NAGUMO, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

A. Conference call

A telephone conference call was held on May 20, 2002, at
approximately 1:30 p.m., involving:

- (1) Gabor I. Szekeres, Esq., counsel for Vuligonda;
- (2) Irving N. Feit, Esq., counsel for Starrett;
- (3) Mark Nagumo, Administrative Patent Judge;

and

- (4) Fred E. McKelvey, Senior Administrative Patent Judge.

In this telephone conference call, the parties agreed that on the record of this interference proceeding:

(1) Starrett is accorded the benefit for priority of its provisional application, serial no. 60/045,155, filed on April 30, 1997;

(2) Vuligonda is accorded the benefit for priority of its application, serial no. 08/764,466, filed December 12, 1996;

(3) Starrett stated in its preliminary motion that it would rely for priority solely on the filing date of its provisional application;

(4) Starrett conceded that it was not entitled to a patent on its involved claims; and

(5) the parties have not entered into a settlement agreement.

B. Order

Upon consideration of the telephone conference call summarized immediately *supra*, it is

ORDERED that judgment on priority as to Count 2, the sole count in the interference, is awarded against junior party Starrett.

FURTHER ORDERED that junior party Starrett is not entitled to a patent containing claims 1-3 and 8 (corresponding to Count 2) of patent of U.S. Patent No. 5,945,561.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/482,700 and U.S. Patent 5,945,561.

FURTHER ORDERED that Vuligonda's sealed preliminary statement shall be returned to Vuligonda.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

McK

<u>FRED E. McKELVEY, Senior</u>)	
Administrative Patent Judge)	
<i>[Signature]</i>)	
<u>RICHARD TORCZON</u>)	
Administrative Patent Judge)	
<i>[Signature]</i>)	
<u>MARK NAGUMO</u>)	
Administrative Patent Judge)	

BOARD OF PATENT
APPEALS AND
INTERFERENCES

May 2002
Arlington, VA

104,803
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